

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE

DANIEL LOVELACE and
HELEN LOVELACE, Individually, and as Parents of
BRETT LOVELACE, deceased,

Plaintiffs,

VS.

NO.: 2:13-cv-02289 dkv
JURY TRIAL DEMANDED

PEDIATRIC ANESTHESIOLOGISTS, P.A.;
BABU RAO PAIDIPALLI ; and,
MARK P. CLEMONS,

Defendants.

**PLAINTIFFS' RESPONSE TO DEFENDANTS', PEDIATRIC
ANESTHESIOLOGISTS, P.A. AND BABU RAO PAIDIPALLI, MOTION
FOR QUALIFIED PROTECTIVE ORDER**

COME NOW Plaintiffs, DANIEL LOVELACE and HELEN LOVELACE, individually, and as Parents of BRETT LOVELACE, deceased, by and through their counsel, and for their Response to Defendants', Pediatric Anesthesiologists, P.A. and Babu Rao Paidipalli, Motion For Qualified Protective Order (D.E. 59), rely upon their Memorandum of Law in Opposition to Motion of Defendants' Pediatric Anesthesiologists, P.A. and Babu Rao Paidipalli, for Qualified Protective Order, and state:

(1) The relief requested by the Motion [D.E. 59] is contrary to federal statutory and regulatory law, as well as the Federal Rules of Civil Procedure and, if granted, warrants the imposition of reasonable safeguards including recording of all such ex parte communications which recordings should be made available to Plaintiffs, or the attendance of Plaintiffs and their counsel should be permitted in lieu thereof;

(2) All relevant medical information of the medical providers who are the objects of these ex parte interviews, has been provided to Defendants; therefore, the six (6) listed persons: Kelly Kish, R.N., Wayne Sutter, EMT, Mark Bugnitz, M.D., Elizabeth Hinson, R.N., Margaret Yoste, R.N., and Dr. Mark P. Clemons, do not otherwise possess "relevant medical information." Any care described as being within the scope of T.C.A. § 29-26-121(f) was documented by the records of each provider and was previously obtained by the Movants. Therefore, secret meetings are the sole purpose of these requested tête-à-têtes between counsel and the six (6) listed providers.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that the Motion be denied or allowed only upon reasonable terms and conditions, including, the safeguard of the recordation of interviews, and delivery to Plaintiffs of a copy of all such recorded communication, and/or Plaintiffs' presence along with counsel being permitted.

Dated: January 7, 2014

Respectfully submitted,

HALLIBURTON & LEDBETTER

/s/P. Mark Ledbetter

MARK LEDBETTER AR# 74175
Attorney for Plaintiffs TN#17637
254 Court Avenue, Suite 305
Memphis, TN 38103
(901) 523-8153-phone
(901) 523-8115-fax
Mark794@aol.com

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of January, 2014, I electronically filed the above with the Clerk of Court using the CM/ECF system, which shall send notification of such filing to The Hardison Law Firm, and the firm of Thomas, Hendrix, Harvey, Johnson & Mitchell. The undersigned hereby certifies that Robert E. Cooper, Jr., Attorney General for the State of Tennessee, has been served by U.S. Mail, postage prepaid, at his address listed below:

David M. Cook - #5362
Albert G. McLean - #5150
The Hardison Law Firm, P.C.
119 S. Main Street, Suite 800
Memphis, TN 38103-3685
Phone: 901.525.8776
Email: dcook@hard-law.com
Email: amclean@hard-law.com
Attorneys for Defendants,
Pediatric Anesthesiologists, P.A. and
Babu Rao Paidipalli, M.D.

J. Kimbrough Johnson - #7953
Marcy Dodds Magee – 19360
Thomas, Hendrix, Harvey, Johnson & Mitchell, PLLC
Attorneys for Defendant, Mark P. Clemons, M.D.
2900 One Commerce Square
40 S. Main Street
Memphis, TN 38103
Phone: 901.525-8721
Fax: 901.525-6722
Email: Johnsonk@thomasonlaw.com
Email: MageeM@thomasonlaw.com

Robert E. Cooper, Jr.
Attorney General for the State of Tennessee
Office of the Attorney General
425 5th Avenue North
Nashville, TN 37243
Phone: (615) 741-3491
Fax: (615) 741-2009

s/P. Mark Ledbetter
Mark Ledbetter, Certifying Attorney